



DEPARTMENT OF NATURAL RESOURCES

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MEMORANDUM

DATE: November 21, 2002

TO: Betty Wyse, Acting Director
Hazardous Waste Program

FROM: James D. Werner, Director (*Original signed by James D. Werner*)
Air and Land Protection Division

SUBJECT: Review and Revision of CALM

Based on a preliminary review of the CALM document and process, I have concluded:

- The CALM process has been enormously valuable and has succeeded in providing much needed flexibility for the department to greatly accelerate cleanup and reduce costs in various programs, including Superfund, RCRA, Voluntary Cleanup Program, Federal Facilities and Tanks;
- Improving the CALM process flexibility and cost effectiveness without compromising environmental protection will produce important benefits such as helping boost community and economic development, reducing air pollution from mobile sources, and saving Missouri tax dollars that might otherwise be required for new or expanded infrastructure elsewhere;
- Several concerns about the CALM document/process have been identified, which, if addressed, could significantly improve the process;
- The ongoing ground water rule workgroup results will likely affect the CALM process and any reviews and updates;
- We can begin the process of the CALM review without interfering with the ground water rule activities or preempting options for the CALM process (e.g., scoping and staff management planning).

Accordingly, I am directing you to lead a review and revision of the CALM process. To begin the CALM review, please provide me a briefing by November 25, 2002 to review the scope and goals and participants in this review process. The December 11 stakeholder meeting will be an excellent opportunity to begin the stakeholder involvement process.

Integrity and excellence in all we do

As part of the review and revision process, I urge you to:

1. Solicit and use input from the public and other stakeholders in an open process.
2. Use the best scientific and technical information already available without “reinventing the wheel” (e.g, see National Academy of Sciences studies on the issue and the Draft Uniform Environmental Covenant).
3. Seek to use the least cost options and minimum controls that provide effective long-term protection of human health and the environment, as well as public confidence in land use controls of residually contaminated properties.
4. Consider rigorous life cycle cost analyses to evaluate the relative costs of reliable long-term stewardship versus the marginal costs of additional cleanup.
5. Examine the availability, value and cost-effectiveness of new technologies for providing LTS (e.g., GPS data and GIS); while selecting the most cost-effective technical options.
6. Use applicable “performance objectives” and other relevant material from the IC subgroup of the ground water rule workgroup (e.g., durable, enforceable, flexible, trackable).
7. Work cooperatively with other DNR Divisions and programs (APCP, GSRAD, OAC and WPSCD) and departments as appropriate.
8. What are the alternatives and effectiveness of various incentives to ensure that the frequency, duration and impact of exposure is minimized, and, if possible eliminated?
9. Consider the context of any “institutional controls” or long term stewardship mechanisms (e.g., relationships and role and responsibilities of private or institutional owners and developers and the roles and possibilities of local governments).
10. Establish a “reopener” process, whereby (a) the whole CALM document is reviewed every five years to determine if it has met our goals and whether additional changes and performance goals are appropriate and (b) specific elements are reviewed as appropriate (e.g., to address new toxicology information).
11. Evaluate pros and cons of publishing CALM as a rule not as a guide.
12. Seek consistency among various DNR programs (e.g., Federal Facilities Section work on the Weldon Spring Site).

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One option is not on the table: Allowing residual contamination to remain in place and issuing a no further action letter without any institutional controls or LTS is NOT an option. Nonetheless, there are a wide range of levels of stewardship that may apply on a graded approach.

I regard this review as one of the most important initiatives of our division for ensuring that environmental protection is accomplished in a way that encourages economic and community development. The current situation is not acceptable in which thousands of sites remain undeveloped in locations with established infrastructures (water, sewer, police, schools) with few options but to use scarce government funds to support new development in locations where infrastructure does not yet exist. Increasing overall government efficiency and broad quality of life and environmental protection for Missourians is one of the primary reasons I want you to ensure that you involve our colleagues in the APCP, OAC, WPSCD and other departments, as appropriate.

At the end of the process, we will know we have succeeded, if reasonable people agree that the following changes have been made and conditions met:

- Increase the predictability and user-friendliness of the process.
- Increase the number of brownfields development sites by at least double the current annual rate, and hopefully by an order of magnitude.
- Reduce exposures of hazardous substances and financial “surprises” to developers, contractors, insurance companies and laborers who might be exposed to hazardous substances while working in excavation or well drilling operations.
- Developers and residents believe they have a realistic options of building, living and working in existing developed areas where residual contamination may exist, instead of feeling like they need to move to greenfield sites to avoid residual contamination that are not developed because of environmental (real and perceived) and financial barriers.
- Participants in the VCP and CALM process encourage other people to enter the program.
- Properties that have been developed using the CALM process have a greater value in subsequent transactions than comparable properties with residual contamination (e.g. “self help”) that have not been developed using the process because of greater confidence that the VCP property will not contain any surprises.
- Establish environmental land use controls as a routine, predictable element of property transactions by land governments, developers and real estate agents, rather than exotic and uncertain instruments.

I also urge you to develop a baseline of performance measures, and establish other performance metrics and goals to determine program success.

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Please do not hesitate to contact me if you have any questions at (573) 751-0763. I am confident that, working together, we will achieve enormous improvements to the benefits of all Missourians.

JDW:rs